

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JUAN BOTELO AND AURA GONZALEZ,
INDIVIDUALLY, AND ON BEHALF OF
B. B.

Plaintiffs,

v.

JOSEPH M. SMITH COMMUNITY HEALTH
CENTER, MT. AUBURN HOSPITAL,
DR. JULIE E. CARUTH, DR. NANDITA NADIG,
AND DR. DEBORAH WONG

Defendants.

Civil Action No.: 13-10224

NOTICE OF REMOVAL

**TO THE HONORABLE JUDGES AND CLERK OF THE UNITED
STATES DISTRICT COURT FOR THE DISTRICT OF
MASSACHUSETTS**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1442 and 1446, the Joseph M. Community Health Center, by and through its attorney, Carmen M. Ortiz, United States Attorney for the District of Massachusetts, hereby removes to this Court the above-entitled action based on the following:

BACKGROUND

1. On or about November 7, 2012, Plaintiffs filed a complaint in the Middlesex County Superior Court, Commonwealth of Massachusetts, entitled Juan Buteo, Individually and as Guardian for B.B., Aura Gonzalez, Individually and as Guardian for B. B. v. Joseph M. Smith Community Health Center, et al., Docket No. 2012-04394 (“State Court Action”). Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of the complaint and summons in the State Court Action are

attached as Exhibit A.

2. In the State Court Action, Plaintiffs seek, among other things, damages related to the medical care of B. B., whom Plaintiffs allege was harmed by a medical error that occurred at the Joseph M. Smith Community Health Center.

3. The Joseph M. Smith Community Health Center, a program grantee under 42 U.S.C. § 254B and a public health service employee under 42 U.S.C. §§ 233(G)-(N), is named as a defendant in the State Court Action.

JURISDICTION

4. This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1442(a)(1), which provides that any officer of the United States may remove to federal court a civil action filed against him or her in a state court.

VENUE

5. Venue lies in this Court pursuant to 28 U.S.C. §§ 1442 and 1446(a).

6. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal, together with a copy of the Notice of Removal, will be filed with the clerk of the Middlesex County Superior Court, Commonwealth of Massachusetts. A copy of the notice filed with that court will be sent to Plaintiff's counsel.

7. Pursuant to Local Rule 81.1(a), the United States will request from the Clerk of the Middlesex County Superior Court, Commonwealth of Massachusetts, certified copies of all records and proceedings in the State Court Action and certified copies of all docket entries, including a copy of this Notice of Removal, and will file the same with this Court within thirty (30) days after filing of this Notice of Removal.

WHEREFORE federal government defendant hereby removes the above-captioned action currently pending in the Middlesex County Superior Court to this Court.

Respectfully submitted,

CARMEN M. ORTIZ
United States Attorney

By: /s/ Jennifer A. Serafyn
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Dated: February 5, 2013

CERTIFICATE OF SERVICE

I, Jennifer A. Serafyn, hereby certify that on February 5, 2013, a true copy of the foregoing document was served on Plaintiffs' counsel at the following addresses:

Joseph P. Crimmins, Esq,
Posternak Blankstein & Lund LLP
800 Boylston Street
Boston, MA 02199

/s/ Jennifer A. Serafyn
Jennifer A. Serafyn
Assistant United States Attorney